VOYAGER 201

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Daman, et al.
Serial No.	:	09/767,126
Filed	:	January 22, 2001
For	:	REAL TIME ELECTRONIC COMMERCE TELECOMMUNICATION
	:	SYSTEM AND METHOD
Examiner	:	Felten, Daniel S.
GAU	:	3624

June 23, 2006

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

INTERVIEW SUMMARY

A telephone interview was conducted on July 10, 2006, between the undersigned and Examiner Felten, based on the previously provided Interview Agenda.

During the Interview, the Examiner indicated that the "clock synchronization" aspect of claims 8 and 14, as explained by applicant's undersigned attorney, likely distinguished the art, while he indicated that the subject matter of claim 1, a change of format, was perhaps less clearly distinct from the art, and further consideration of this claim set was required.

Claim 7 was also discussed, and it was agreed that, subject to further search by the Examiner to elucidate the communication between the server and Java applet disclosed in Friedland et al., and consideration thereof, that the hypertext language protocol limitation might be deemed patentable. Applicants also raised the "OnSale.com" system (discussed in the specification), and discussed a prior art bidding agent program available for that Internet site which employed "Marimba", a scriptable platform.

While applicants agree that the use of HTML (hypertext protocol) for Internet-based communications is normally presumed to be obvious, this is only the case where the functionality is not beyond the normal abilities of an available browser to implement. Thus, if a requirement for local intelligence requires a Java™ applet or the like to define the user interface, this applet would replace the use of HTML to define the user interface, and the Java applet would not itself define an HTML (or other hypertext protocol) browser. Therefore, absent an express disclosure that a hypertext protocol is employed, none should be presumed, especially where the implementation of the functions in a hypertext browser alone is rejected, and a Java applet specifically identified. In the present case defined in claim 7, the enhanced functionality is implemented in a remote server (proximate to the user, remote from the central server), which, in turn, communicates using a hypertext protocol with a user, a distinct architecture from that disclosed by Friedland, et al.

The subject matter of claim 2 was not particularly addressed during the interview.

No agreement was reached regarding the patentability of claims 1-7.

The clock synchronization of the remote location according to claims 8 and 14 is believed to be patentable, and the Examiner agreed to favorably review applicant's arguments, as supplemented herein.

In the system according to Friedland et al. the relevant time is the time or receipt of a bid at the collector/redistributor nodes, which then hierarchally filter a "winning" bid to the next level, so that each server in the hierarchy has a limited transaction processing burden, and therefore can attempt to process bids in real-time. In the absence of a hierarchy, a large number of bids would be received nearly simultaneously, thus overburdening the central server. These bids are processed in the order received and acknowledged, so if the server is busy and cannot respond to one bid, it would have to be re-transmitted, and perhaps then be later in time than a bid originally presented later. Friedland et al.'s solution to this problem is to set up a hierarchy

of servers, none of which would be overburdened by the anticipated transactional volume, and therefore reduce the possibility of collisions or delayed response.

On the other hand, the present invention of claims 8 and 14 solves the problem in a different way. Bids are tagged with the time of sending by the remote server (which is synchronized), and then passed to the central server in a non-time critical fashion. Therefore, even if a packet is mildly delayed or requires retransmission, the bidder is entitled to the time of bid placement. Because of the nature of the Internet and TCP/IP protocol, this would normally create the possibility of fraud, since the timestamp on the packet is self-reported. Therefore, the presently claimed invention of claims 8 and 14 require that the remote clock be "synchronized", to defeat this type of fraud. Likewise, clock errors may occur even in the absence of fraud or attempted fraud. For example, in a classic design IBM-compatible personal computer, there may be both a hardware clock (RTC) and software clock, the later being interrupt driven, and which normally has a sight error which increases over time. Older computers may lack the hardware clock altogether, and thus were dependent on a user entry of the time at startup.

In any case, since the bidding is based on a self-reported time, the synchronization is a critical part of the invention of claims 8 and 14, while in Friedland et al., the bidding process appears to have been dependent on a time of receipt, with a hierarchal propagation of a "winner" at each tier until a single winner is decided. Thus, Friedland et al. does not teach or suggest a clock synchronization feature at the remote location, since this is presumably irrelevant to the bidding process disclosed therein.

Respectfully submitted,

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